

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

INDECK KEYSTONE ENERGY LLC,	:
	:
Plaintiff,	:
	:
v.	:
	Civil Action No. 04-325 Erie
	:
VICTORY ENERGY OPERATIONS	:
LLC,	Judge Sean J. McLaughlin
	:
Defendant	:
	:
	JURY TRIAL DEMANDED

**DEFENDANT'S MOTION IN LIMINE NO. 7 BARRING ANY REFERENCE TO
PRIOR LITIGATION, INCLUDING INDECK POWER EQUIPMENT CO. v.
VICTORY ENERGY OPERATIONS LLC, OR CONNOLY, ROBERTS &
McGIVNEY v. VICTORY ENERGY OPERATIONS LLC**

Introduction

Defendant Victory Energy Operations LLC (“VEO”), by its undersigned counsel, for its Motion *In Limine* Barring Any Reference To Prior Litigation, Including *Indeck Power Equipment Co. v. Victory Energy Operations LLC, And Connolly, Roberts & McGivney V. Victory Energy Operations LLC v. Victory Energy Operations LLC*, states as follows:

1. VEO has been involved in other litigation wholly unrelated to the instant dispute, and it would be unfair, confusing and prejudicial to allow IKE or its counsel to make reference to prior litigation during the course of the trial of this cause.
2. Pursuant to Rule 403 of the Federal Rules of Evidence, what little probative value such testimony or evidence would potentially provide is greatly outweighed by the prejudicial effect such testimony would create.

3. Moreover, allowing reference to prior litigation would unnecessarily prolong the trial because VEO's counsel would be forced to present testimony to explain and rebut any negative inference.

WHEREFORE, Defendant Victory Energy Operations LLC requests that the Court enter an order barring IKE from introducing evidence or testimony from prior litigation involving Victory Energy Operations LLC.

Dated: April 27, 2007

Respectfully submitted,

/s/ Christopher T. Sheean
One of the Attorneys for Defendant,
VICTORY ENERGY OPERATIONS
LLC

Christopher T. Sheean
Brian W. Lewis
Matthew Garrett
Wildman, Harrold, Allen & Dixon LLP
225 W. Wacker Drive, 28th Floor
Chicago, IL 60606
(312) 201-2997

LOCAL COUNSEL:

G. Jay Habas
Marshall, Dennehey, Warner
Coleman & Goggin
1001 State Street, Suite 1400
Erie, PA 16506
(814) 461-7800
PA ID No. 55581

Counsel for Victory Energy Operations LLC

MOTION IN LIMINE CERTIFICATE

Christopher T. Sheean, an attorney, certifies pursuant to Local Rule 16.1.4(D), that all parties made a reasonable effort to reach agreement on the issues raised by this motion prior to its filing.

/s/ Christopher T. Sheean _____

CERTIFICATE OF SERVICE

Christopher T. Sheean, an attorney, certifies that on the 27th day of April, 2007, he caused a copy of the foregoing ***Defendant's Motion In Limine Barring Any Reference To Prior Litigation, Including Indeck Power Equipment Co. v. Victory Energy Operations LLC, And Connolly, Roberts & McGivney V. Victory Energy Operations LLC v. Victory Energy Operations LLC*** to be filed electronically, and that the CM/ECF system for the court will e-mail a copy of the foregoing to the following counsel of record:

John K. Gisleson
Robert J. Williams
Schnader Harrison Segal & Lewis LLP
Fifth Avenue Place, Suite 2700
120 Fifth Avenue
Pittsburgh, PA 15222-3001
Email: JGisleson@Schnader.com
ATTORNEYS FOR PLAINTIFF INDECK
KEYSTONE ENERGY LLC

/s/ Christopher T. Sheean
Christopher T. Sheean